

## **PUBLIC ART CONTRACT ELEMENTS**

Compiled by 4Culture — October, 2010

Public Art contracts will vary from one commissioning agency to another and from one project to another. This outline, based on 4Culture contract templates, can help you begin to identify and understand some of the elements of a public art contract.

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### **ARTISTIC SERVICES CONTRACT**

Used for the design phase of a public art commission to produce a conceptual artwork proposal, establish the budget breakdown for fabrication, approve the direction and concept, and complete detailed design and engineering (if required). Also used for Design Team collaborations where the artist will be operating as a design peer, not necessarily producing an individual work of art.

- RECITALS – introduction to the contract parties.
- DURATION – term of the agreement, when it commences and terminates.
- SCOPE OF SERVICES – description of services to be performed.  
Note: typically, an Exhibit entitled Scope of Services is attached to the boilerplate contract with detailed description of deliverables, expectations for independent research and interaction with stakeholders, review and approval process for the artwork concept, and artist's responsibility for final design documentation.
- SCOPE OF COMPENSATION – project payment schedule.
- HOLD HARMLESS & INDEMNIFICATION – description of contractor/employee status, audit responsibilities, agreement between the artist and agency not to hold the other responsible for loss, damage or legal liability.
- EQUAL EMPLOYMENT OPPORTUNITY – prohibition against discrimination.
- RECORD KEEPING & AUDITS – record keeping responsibilities and access for audits.
- PROPRIETARY RIGHTS & RIGHTS OF REPRODUCTION – ownership of rights including Federal Copyright Act and Visual Artists Rights Act, agency authorization to reproduce for the benefit of the public.
- TERMINATION – means of termination and responsibilities therein.
- CONFLICT OF INTEREST – commissioning agency employees separate from the financial interest of the contract.

- CHANGES – means of modifying the contract after its processing.

## **COMMISSIONED ARTWORK CONTRACT**

Used to commission a work of art based on the approved concept and completion of the design phase and design contract.

- RECITALS – introduction to the contract parties.
- DURATION – term of the agreement, when it commences and terminates.
- SCOPE OF SERVICES – description of services to be performed.  
Note: typically, an Exhibit entitled Scope of Services is attached to the boilerplate contract with detailed description of the approved artwork components, expectations and work responsibilities of the Artist and his/her sub-contractors and the General Contractor operating on the construction site, schedule for final completion and installation, and artist's responsibilities towards final acceptance of the work by the commissioning agency, including maintenance forms, artist statement and documentation.
- ADDITIONAL SERVICES OF THE ARTIST – means for requesting additional work outside the Scope of Work, compensation measures.
- RESPONSIBILITY OF THE ARTIST – what the artist is responsible for.
- RESPONSIBILITY OF THE AGENCY – what the commissioning agency is responsible for.
- COMPENSATION – project payment schedule.
- WARRANTIES – artist warranting of original product of his/her creative effort, designation that the artwork is one-of-a-kind or part of a specified edition, and term-limit and scope of responsibility for failure of the artwork fabrication and/or installation methods.
- HOLD HARMLESS & INDEMNIFICATION – description of contractor/employee status, audit responsibilities, agreement between the artist and agency not to hold the other responsible for loss, damage or legal liability.
- INSURANCE – insurance requirements.
- MAINTENANCE – artist responsibilities, agency responsibilities.
- ALTERATIONS, RESTORATION &/OR REPAIRS OF THE ARTWORK OR THE SITE – agency responsibilities, artist opportunities for involvement and procedure/rights of the artist in the event of a disagreement over alterations or unauthorized change.

- PROPRIETARY RIGHTS & RIGHTS OF REPRODUCTION – ownership of rights including Federal Copyright Act and Visual Artists Rights Act, agency authorization to reproduce for the benefit of the public.
- TERMINATION – means of termination and responsibilities therein.
- NOTICES – communication methods for artist-agency notices.
- CHANGES – means of modifying the contract after its processing.
- ENTIRE CONTRACT / WAIVER OF DEFAULT – contract as complete expression of terms.